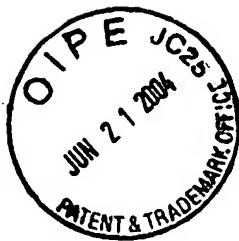


Atty. Dkt. No. 156.0001
Appl. No. 09/310,965



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AF
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant : STAN SCHALL, JR.

Serial No. : 09/310,965

Examiner: Fenn C. MATHEW

Filed : May 13, 1999

Group Art Unit: 3764

For : EXERCISE APPARATUS

APPELLANT'S REPLY TO EXAMINER'S ANSWER

MS Appeal Brief - Patents
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APPELLANT'S REPLY TO EXAMINER'S ANSWER

This Reply is timely filed in response to the April 20, 2004 Examiner's Answer as June 20th fell on a Sunday.

Appellant confirms that there are no appeals or interferences related to the above-captioned application which will directly affect or be directly affected by or have a bearing on the Board's decision in the present appeal.

In clarification of the previously filed Brief and in response to the Examiner's Answer, Appellant does not appeal the rejection of claim 15.

Appellant now wishes to clarify his arguments relating to the 35 U.S.C. §112, second paragraph, rejection of claim 2 and the 35 U.S.C. §§ 102(b) and/or 103(a) rejections of claims 6-9 in response to the Examiner's Answer. Appellant renews the arguments made in the brief.

With respect to the rejection of claim 2, Appellant submits that the phrase "the horizontal plane" is not indefinite given the presence of a tall upright portion and a short upright portion. The specification on page 8, lines 3-5 states that "[t]he two upright portions 160, 162 are of different heights to place the gripping area 164 at an angle to the plane of the upper housing area." One of ordinary skill in the art reading the claim in view of the specification would understand that the horizontal plane intersects these upright portions and that the gripping area would be angled. As previously mentioned, one way to define the angle of the gripping area is by referring to the horizontal plane. Appellant respectfully submits that this rejection is improper and should be reversed.

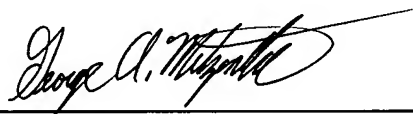
The rejections of claims 6, 7, and 9 are respectfully submitted as being improper. The device disclosed in Hovda (U.S. Pat. No. 1,533,500) is for teaching the concepts of the conservation of angular momentum and/or energy of rotation. Hovda, page 1, lines 9-13 and page 1, line 101 to page 2, line 27. Hovda discloses the purpose of the nuts 21 as "locking the plate 16 in its adjusted position." Hovda, page 1, lines 81-83. Additional support that the nuts 21 are not to be adjusted is the presence of the dust plates 23, which are countersunk and attached to the top and bottom discs 1 and 2. The nuts 21 are not

designed to be adjusted relative to the screw bolt 19, at least in part because the screw bolt 19 is threaded to the plate 16, i.e., the plate 16 is screwed onto the screw bolt 19 and prevents tightening of the nuts 21. See Hovda, page 1, lines 77-81. Thus, the nuts 21, the screw 19, and the head 20 are not the recited regulating components of claim 6. With respect to claim 7, Hovda is silent regarding the presence of any friction material that would restrict rotation of the discs. Therefore, Appellant submits that claims 6, 7, and 9 are patentable over Hovda.

The combination of Hovda and Titus (U.S. Pat. No. 2,256,001) respectfully is submitted as being improper and as a result claim 9 is patentable. As previously discussed in the Brief and above, Hovda teaches a device that can be flipped over and still be used for teaching students about angular momentum. The presence of footings on one side would impact the ability of the device taught by Hovda from fulfilling one of its stated purposes, i.e. the third object. Hovda, page 1, lines 26-36. As such, Applicant respectfully submits that this is an improper combination.

Appellant renews his request for withdrawal or reversal of the remaining final rejections and allowance of all claims on appeal are respectfully requested.

Respectfully submitted,
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